

## Department of Energy

## § 719.2

### PART 719—CONTRACTOR LEGAL MANAGEMENT REQUIREMENTS

#### Subpart A—General Provisions

Sec.

- 719.1 What is the purpose of this part?
- 719.2 What are the definitions of terms used in this part?
- 719.3 What contracts are covered by this part?
- 719.4 Are law firms that are retained by the Department covered by this part?
- 719.5 What contracts are not covered by this part?
- 719.6 Are there any types of legal matters not included in the coverage of this part?
- 719.7 Is there a procedure for exceptions or deviations from this part?

#### Subpart B—Legal Management Plan

- 719.10 What information must be included in the legal management plan?
- 719.11 Who must submit a legal management plan?
- 719.12 When must the plan be submitted?
- 719.13 Who at the Department must receive and review the plan?
- 719.14 Will the Department notify the contractor concerning the adequacy or inadequacy of the submitted plan?
- 719.15 What are the requirements for a staffing and resource plan?
- 719.16 When must the staffing and resource plan be submitted?
- 719.17 Are there any budgetary requirements?

#### Subpart C—Engagement Letter

- 719.20 When must an engagement letter be used?
- 719.21 What are the required elements of an engagement letter?

#### Subpart D—Reimbursement of Costs Subject to This Part

- 719.30 Is there a standard for determining cost reasonableness?
- 719.31 How does the Department determine whether fees are reasonable?
- 719.32 For what costs is the contractor, or Department retained counsel, limited to reimbursement of actual costs only?
- 719.33 What categories of costs are unallowable?
- 719.34 What is the treatment for travel costs?
- 719.35 What categories of costs require advance approval?
- 719.36 Who at the Department must give advance approval?
- 719.37 Are there any special procedures or requirements regarding subcontractor legal costs?

- 719.38 Are costs covered by this part subject to audit?
- 719.39 What happens when more than one contractor is a party to the matter?

#### Subpart E—Department Counsel Requirements

- 719.40 What is the role of Department counsel as a contracting officer's representative?
- 719.41 What information must be forwarded to the General Counsel's Office concerning contractor submissions to Department counsel under this part?
- 719.42 What types of field actions must be coordinated with Headquarters?

#### APPENDIX TO PART 719—GUIDANCE FOR LEGAL RESOURCE MANAGEMENT

AUTHORITY: 42 U.S.C. 2201, 5814, 5815 and 7101, *et seq.*; 50 U.S.C. 2401, *et seq.*

SOURCE: 66 FR 4621, Jan. 18, 2001, unless otherwise noted.

#### Subpart A—General Provisions

##### § 719.1 What is the purpose of this part?

This part is intended to facilitate control of Department and contractor legal costs, including litigation costs. The contractor is required to develop a procedure for retaining legal counsel, and to document the analysis used to decide when, where and who will be engaged as outside counsel and the terms of the engagement. Payment of law firm invoices and reimbursement of contractor legal costs under covered contracts is subject to compliance with this part.

##### § 719.2 What are the definitions of terms used in this part?

For purposes of this part:

*Alternative dispute resolution* includes processes such as mediation, neutral evaluation, mini-trials and arbitration.

*Contractor* means any person or entity with whom the Department contracts for the acquisition of goods or services.

*Covered contracts* means those contracts described in § 719.3.

*Department* means the Department of Energy, including the National Nuclear Security Administration.

*Department counsel* means the individual in the field office, or Headquarters office, designated as the contracting officer's representative and

### §719.3

point of contact for a contractor or Department retained legal counsel, for purposes of this part only, for submission and approval of the legal management plan, advance approval of certain costs, and submission of a staffing and resource plan, as addressed in this part.

*Legal costs* include, but are not limited to, administrative expenses associated with the provision of legal services by retained legal counsel; the costs of legal services provided by retained legal counsel; the costs of the services of accountants, consultants, or others retained by the contractor or by retained legal counsel to assist retained legal counsel; and any similar costs incurred by or in connection with the services of retained legal counsel.

*Legal management plan* means a statement describing the contractor's practices for managing legal costs and matters for which it procures the services of retained legal counsel.

*Retained legal counsel* means members of the bar working in the private sector, either individually or in law firms, who are retained by a contractor or the Department to provide legal services.

*Significant matters* means legal matters, including litigation, involving significant issues as determined by Department counsel, and any legal matter where the amount of any legal costs, over the life of the matter, is expected to exceed \$100,000.

*Staffing and resource plan* means a statement prepared by retained legal counsel describing plans for managing a significant matter.

#### §719.3 What contracts are covered by this part?

(a) This part covers cost reimbursement contracts:

(1) For an amount exceeding \$100,000,000, and

(2) Involving work performed at the facilities owned or leased by the Department.

(b) This part covers contracts otherwise not covered by paragraph 3(a) of this section containing a specialized clause requiring compliance with this part.

(c) This part also covers Department contracts with retained legal counsel where the legal costs are expected to exceed \$100,000.

### 10 CFR Ch. III (1–1–04 Edition)

#### §719.4 Are law firms that are retained by the Department covered by this part?

Retained legal counsel under fixed rate or other type of contract with the Department itself to provide legal services must comply with the following where the legal costs over the life of the matter for which counsel has been retained are expected to exceed \$100,000:

(a) Requirements related to staffing and resource plans in subpart B of this part,

(b) Engagement letter requirements if legal work is contracted out, and

(c) Cost guidelines in subpart D of this part.

#### §719.5 What contracts are not covered by this part?

This part does not cover:

(a) Fixed price contracts;

(b) Cost reimbursement contracts for an amount less than \$100,000,000; or

(c) Contracts for an amount exceeding \$100,000,000 involving work not performed at a government owned or leased site.

#### §719.6 Are there any types of legal matters not included in the coverage of this part?

Matters not covered by this part include:

(a) Matters handled by counsel retained by an insurance carrier;

(b) Routine intellectual property law support services;

(c) Routine workers and unemployment compensation matters and labor arbitrations; and

(d) Routine matters handled by counsel retained through a GSA supply schedule.

#### §719.7 Is there a procedure for exceptions or deviations from this part?

(a) Requests for exceptions or deviations from this part by contractors must be made in writing to Department counsel and approved by the General Counsel. If an alternate procedure is proposed for compliance with an individual requirement in this part, that procedure must be included in the written request by the contractor.